IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

Crl.MC.No. 1446 of 2007()

AGAINST THE ORDER IN CC 235/06 IN CC.29/2006 of JUDL.MAGISTRATE OF FIRST CLASS-III, KOTTAYAM

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PETITIONER:

PRASAD, AGED 49 YEARS,
S/O.V.K.SUKUMARAN, OOTIYIL HOUSE,
T.B.ROAD, KOTTAYAM.

BY ADV. SRI.P.K.MURALEEDHARAN
SRI.SUNU P.JOHN
SRI.C.DEVANAND

RESPONDENTS:

1. P.S.RAJESH, AGED 29, S/O.SREENIVASAN,
SIVA NIVAS, CHALUKUNNU, KOTTAYAM.

2. VENKITTA RAMAN @ VIJAYAN,
S/O.ANADARAMAN 42 YEARS, KARTHIKA,
TIRUNAKKARA, KOTTAYAM.

3. SABIRI, S/O.SIVARAMAN, AGED 26 YEARS,
PATTACHERIL HOUSE, PANAMATTOM KARA,
THEKKUMBHAGAM, ELIKKULAM VILLAGE, KOTTAYAM.

4. SUB INSPECTOR OF POLICE, KOTTAYAM
WEST POLICE STATION, KOTTAYAM.

5. STATE OF KERALA, REPRESENTED BY THE
DIRECTOR GENERAL OF PROSECUTION
HIGH COURT OF KERALA, ERNAKULAM.

6. DIRECTOR GENERAL OF POLICE,
(CRIME BRANCH) OFFICE OF THE
DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1446 of 2007

Dated this the 29th day of May, 2007

ORDER

Petitioner is the defacto complainant in Crime No.571/2005 of Kottayam West Police Station. Investigation is complete. Final report has been filed alleging commission of offence under Sections 447 and 294 (b) read with 34 I.P.C and Sections 13 and 17 of Kerala Money Lenders Act. The crux of the allegations is that on 19.12.2005, accused persons had gone to the house of the complainant in an attempt to intimidate him and compel him to repay the loan which he had availed from the accused persons. They had allegedly indulged in the alleged culpable conduct after trespassing into the premises. Final report has already been filed. Cognizance has already been taken. The petitioner has come to this Court now aggrieved by the inadequate investigation allegedly conducted. The petitioner prays that direction for further investigation under Section 173(8) Cr.P.C may be issued.

2. The learned Public Prosecutor opposes the application. Sufficient and proper investigation has been conducted. The purpose of investigation and prosecution is not to wreak private vengeance, but to satisfy the interests of the public justice and the said interests have been eminently served by the investigation conducted by the

police, submits the learned Public Prosecutor. If the petitioner is aggrieved, the petitioner has the option to file a private complaint to supplement the allegations already raised in the final report submitted by the police, submits the learned Public Prosecutor.

3. The learned counsel for the petitioner submits that the investigation is not proper, in that, allegations of unlawful assembly, rioting etc. alleged by the petitioner have not been accepted by the police. He further submits that one of the accused has been unjustifiably removed from the array of parties. He further laments that the accused persons have filed a false complaint against the petitioner and subjected him to needless and unnecessary harassment.

4. I have considered all the submissions made and the relevant circumstances. I am of the opinion that there is absolutely no justification in the prayer for issue of directions under Section 173(8) Cr.P.C to conduct any further investigation. In the nature of the facts and circumstances of this case, I am certainly in agreement with the learned Public Prosecutor that if the petitioner is aggrieved, it is for him to raise all appropriate allegations by filing a private complaint against the accused persons. At any rate, sufficient circumstances to issue a direction under Section 173(8) Cr.P.C in exercise of the extraordinary inherent jurisdiction under Section 482 Cr.P.C do not appear to exist.

5. This Crl.M.C is, in these circumstances, dismissed with the above observations.

(R.BASANT, JUDGE)

rtr/-